314 U.S. 627

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 526

HUGHES ROBERT HILLIARD,

Petitioner,

vs.

THE UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

JOHN W. CARTER, JR.,
HUGH T. WILLIAMS,
Counsel for Petitioner.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 526

HUGHES ROBERT HILLIARD,
Petitioner and Appellant Below,

vs.

THE UNITED STATES OF AMERICA,
Respondent and Appellee Below.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

To the Honorable Harlan F. Stone, Chief Justice of the United States, and the Associate Justice of the Supreme Court of the United States:

Your petitioner respectfully shows:

I.

Summary Statement of the Matter Involved.

This is a criminal action that was originally instituted by an indictment found at the October, 1940, term of the United States District Court for the Western District of Virginia at Big Stone Gap. The indictment charged the

petitioner, Hughes Robert Hilliard, with violating Section 400, Title 18 of the United States Code Annotated. Specifically, it charged that the petitioner did "unlawfully, feloniously and knowingly persuade, induce and entice one Stella Vaughn, a girl of the age of sixteen years, from the City of Bristol in the Western District of Virginia and within the jurisdiction of this Court to New York City in the State of New York with the purpose and intent to induce and coerce her to engage in prostitution and debauchery, and did in the furtherance of such purpose, knowingly induce and cause her to go and be carried and transported as a passenger in interstate commerce over the route of * * * a common carrier from Lynchburg, Virginia * * * to New York City" (R. 2). The cause was transferred to the United States District Court for the Western District of Virginia at Danville and there at its February, 1941, term it was tried. The petitioner pleaded not guilty and the jury was sworn to try the issues joined. That jury found the petitioner guilty and the Court imposed on him a sentence of ten years confinement in the Atlanta Penitentiary and a fine of ten thousand dollars (R. 4). From this judgment an appeal was prosecuted to the United States Circuit Court of Appeals for the Fourth Circuit and on July 21, 1941, the judgment of the District Court was affirmed in an opinion by Soper, C. J. (R. 65). It is to this decision of the Circuit Court of Appeals that this petition for writ of certiorari is filed.

II.

Reasons Relied on for Allowance of the Writ.

1. When the Circuit Court of Appeals said on page 3 of its opinion that "In summary, it may be said that while there was abundant evidence to support the charge that Hilliard induced the girl to go to New York for immoral

purposes, there was little ground for believing that she was forced into a life of prostitution", it in effect decided that the evidence was insufficient to convict the petitioner on the charge that he was actually convicted of, to-wit: The coercion of Stella Vaughn, a girl under the age of eighteen years to go from Bristol, Virginia, to New York City with the purpose and intent to coerce her to engage in prostitution.

2. That the Circuit Court of Appeals was in error in holding that the trial judge by proper admonition to the jury cured the harmful effect of the demand made upon the petitioner by the United States Attorney to produce certain documents which were highly incriminating.

3. That the Circuit Court of Appeals was in error in holding that "the conduct of the United States Attorney in the closing argument when in response to a challenge of his opponent he made a statement which amounted to the giving of testimony on his part in support of the prosecution" was not prejudicial error.

4. That the Circuit Court of Appeals was in error in holding that the admission of the testimony of a colored maid was harmless and not prejudicial. This evidence was to the effect that two women (neither of whom was Stella Vaughn) both told this colored maid "that they were engaged in prostitution in the employment of the defendant".

5. The Circuit Court of Appeals was in error in holding that the petitioner was not prejudiced by the refusal of the trial court to give instructions "b", "d", "i" and "j" tendered by the petitioner.

It is contended that these decisions of the Circuit Court of Appeals are in conflict with the decisions of other Circuit Courts of Appeals, as will be pointed out in our brief.

It is also contended that these decisions of the Circuit Court of Appeals are decisions of Federal questions probably in conflict with the applicable decisions of the Supreme Court of the United States.

It is also contended that these decisions involve important questions of Federal law, which questions if not already decided by the Supreme Court of the United States should be settled by said Supreme Court.

WHEREFORE your petitioner prays that a writ of certiorari issue under the seal of this Court directed to the United States Circuit Court of Appeals for the Fourth Circuit, commanding said court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said United States Circuit Court of Appeals had in the case numbered and entitled on its docket "No. 4789, Hughes Robert Hilliard, Appellant, *v.* United States of America, Appellee", to the end that this cause may be reviewed and determined by this Court as provided for by the statutes of the United States; and that the judgment herein of said United States Circuit Court of Appeals be reversed by the Court and for such further relief as to this Court may seem proper.

Dated August 15, 1941.

HUGHES ROBERT HILLIARD,
By JNO. W. CARTER, JR.,
Danville, Virginia;
HUGH T. WILLIAMS,
Danville, Virginia,
Counsel for Petitioner.